

ERNEST J. BROOKS, III
PLAINTIFF/PETITIONER/MOVANT'S NAME
T-61049
PRISON NUMBER
CALIFORNIA SUBSTANCE ABUSE TREATMENT
FACILITY & STATE PRISON
PLACE OF CONFINEMENT
P.O. BOX 5242
CORCORAN, CA 93212-5242
ADDRESS

FILED

2008 MAR -7 PM 3:33

CLERK U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY Rm DEPUTY

**United States District Court
Southern District Of California**

ERNEST J. BROOKS, III

Plaintiff/Petitioner/Movant

v.

KEN CLARK, WARDEN

Defendant/Respondent

Civil No. 08cv0125-JM(BLM)

(TO BE FILLED IN BY U.S. DISTRICT COURT CLERK)

**MOTION AND DECLARATION UNDER
PENALTY OF PERJURY IN SUPPORT
OF MOTION TO PROCEED IN FORMA
PAUPERIS**

I, _____
declare that I am the Plaintiff/Petitioner/Movant in this case. In support of my request to proceed without prepayment of fees or security under 28 U.S.C. § 1915, I further declare I am unable to pay the fees of this proceeding or give security because of my poverty, and that I believe I am entitled to redress.

In further support of this application, I answer the following question under penalty of perjury:

1. Are you currently incarcerated? ☒ Yes ☐ No (If "No" go to question 2)

If "Yes," state the place of your incarceration C.S.A.T.F. // CORCORAN-II

Are you employed at the institution? ☒ Yes ☐ No

Do you receive any payment from the institution? ☐ Yes ☒ No

[Have the institution fill out the Certificate portion of this affidavit and attach a certified copy of the trust account statement from the institution of your incarceration showing at least the last six months transactions.]

2. Are you currently employed? ☐ Yes ☐ No

a. If the answer is "Yes," state the amount of your take-home salary or wages and pay period and give the name and address of your employer. _____

b. If the answer is "No" state the date of your last employment, the amount of your take-home salary or wages and pay period and the name and address of your last employer. _____

3. In the past twelve months have you received any money from any of the following sources?:

- | | |
|---|---|
| a. Business, profession or other self-employment | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| b. Rent payments, royalties interest or dividends | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| c. Pensions, annuities or life insurance | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| d. Disability or workers compensation | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Social Security, disability or other welfare | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| e. Gifts or inheritances | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| f. Spousal or child support | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| g. Any other sources | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |

If the answer to any of the above is "Yes" describe each source and state the amount received and what you expect you will continue to receive each month. _____

4. Do you have any checking account(s)? ☐ Yes ☒ No

- a. Name(s) and address(es) of bank(s): _____
 b. Present balance in account(s): _____

5. Do you have any savings/IRA/money market/CDS' separate from checking accounts? ☐ Yes ☒ No

- a. Name(s) and address(es) of bank(s): _____
 b. Present balance in account(s): _____

6. Do you own an automobile or other motor vehicle? ☐ Yes ☒ No

- a. Make: _____ Year: _____ Model: _____
 b. Is it financed? ☐ Yes ☐ No
 c. If so, what is the amount owed? _____

7. Do you own any real estate, stocks, bonds, securities, other financial instruments, or other valuable property?

☐ Yes ☒ No

If "Yes" describe the property and state its value. _____

8. List the persons who are dependent on you for support, state your relationship to each person and indicate how much you contribute to their support. NONE

9. List any other debts (current obligations, indicating amounts owed and to whom they are payable): _____

1. \$10,000.00 RESTITUTION CASE NO. SCD163292 BAL. \$9,137.00

2. \$ 350.00 CIVIL FILING FEE CASE NO. 05cv0749-JAH(CAB) BAL. \$270.00

3. \$ 150.00 CIVIL FILING FEE CASE NO. 03cv1194-WQH(BEN) BAL. \$133.00

10. List any other assets or items of value (specify real estate, gifts, trusts inheritances, government bonds, stocks, savings certificates, notes, jewelry, artwork, or any other assets [include any items of value held in someone else's name]): NONE

12. If you answered all of the items in #3 "No," and have not indicated any other assets or sources of income anywhere on this form, you must explain the sources of funds for your day-to-day expenses. I AM A
DEPENDENT OF THE STATE OF CALIFORNIA.

I declare under penalty of perjury that the above information is true and correct and understand that a false statement herein may result in the dismissal of my claims.

February 25, 2008

DATE



SIGNATURE OF APPLICANT

If you are a **prisoner** you must have an officer from your institution provide this official certificate as to the amount of money in your prison account. There are no exceptions to this requirement.

PRISON CERTIFICATE
(Incarcerated applicants only)
 (To be completed by the institution of incarceration)

I certify that the applicant ERNEST J. BROOKS, III
 (NAME OF INMATE)

T-61049

(INMATE'S CDC NUMBER)

has the sum of \$ 0 on account to his/her credit at C SATF

CALIFORNIA SUBSTANCE ABUSE TREATMENT FACILITY / STATE PRISON

(NAME OF INSTITUTION)

I further certify that the applicant has the following securities _____

to his/her credit according to the records of the aforementioned institution. I further certify that **during**

the past six months the applicant's *average monthly balance* was \$.83

and the *average monthly deposits* to the applicant's account was \$ 1.33

ALL PRISONERS *MUST* ATTACH A CERTIFIED COPY OF THEIR TRUST ACCOUNT STATEMENT SHOWING TRANSACTIONS FOR THE SIX-MONTH PERIOD IMMEDIATELY PRECEDING THE FILING OF THE COMPLAINT PER 28 U.S.C. § 1915(a)(2).

FEB 28 2008

DATE

cm Jordan

SIGNATURE OF AUTHORIZED OFFICER OF INSTITUTION

m. Jordan

OFFICER'S FULL NAME (PRINTED)

Account Clerk

OFFICER'S TITLE/RANK

TRUST ACCOUNT WITHDRAWAL AUTHORIZATION
(Incarcerated applicants only)

(This form **MUST** be completed by the prisoner requesting to proceed in forma pauperis. An incomplete "Trust Account Withdrawal Authorization Form," or "Prison Certificate" will result in automatic denial of the prisoner's request to proceed in forma pauperis.)

I, ERNEST J. BROOKS, III, request and authorize the agency holding me in
(Name of Prisoner/ CDC No.)
custody to prepare for the Clerk of the United States District Court for the Southern District of California, a certified copy of the statement for the past six months of my trust fund account (or institutional equivalent) activity at the institution where I am incarcerated.

I further request and authorize the agency holding me in custody to calculate and disburse funds from my trust fund account (or institutional equivalent) pursuant to any future orders issued by the Court relating to this civil action pursuant to the Prison Litigation Reform Act of 1995, Pub. L. No. 104-134, Title VIII, §§ 801-10, 110 Stat. 1321 (1996).

This authorization is furnished in connection with a civil action filed in the Southern District of California, and I understand that, pursuant to 28 U.S.C. §§ 1914 and 1915(b)(1), the total amount of filing fees for which I am obligated is either ☐ \$350 (civil complaint) or ☒ \$5 (habeas corpus petition) (check one). I also understand that this fee will be debited from my account regardless of the outcome of this action. This authorization shall apply to any other agency into whose custody I may be transferred.

February 25, 2008

DATE

EBL

SIGNATURE OF PRISONER

CALIFORNIA DEPARTMENT OF CORRECTIONS

SATF/SP AT CORCORAN

INMATE TRUST ACCOUNTING SYSTEM

INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: JUL. 01, 2007 THRU FEB. 29, 2008

ACCOUNT NUMBER : T61049

BED/CELL NUMBER: FEB5T1000000136L

ACCOUNT NAME : BROOKS, ERNEST

ACCOUNT TYPE: I

PRIVILEGE GROUP: A

TRUST ACCOUNT ACTIVITY

TRAN	DATE	CODE	DESCRIPTION	COMMENT	CHECK NUM	DEPOSITS	WITHDRAWALS	BALANCE
	07/01/2007		BEGINNING BALANCE					0.00
	07/05	*UD54	INMATE PAYROL	0088/06-07		3.46		3.46
	07/05	W213	FEDERAL FILIN	0098/0798			1.53	1.93
	07/05	W213	FEDERAL FILIN	0098/1194			1.53	0.40
	07/18	W516	LEGAL COPY CH	0383/LCOPY			0.40	0.00
	08/06	W823	REVERSE FILIN	0659/0098			1.53-	1.53
	08/06	W823	REVERSE FILIN	0659/0098			1.53-	3.06
	08/07	*UD54	INMATE PAYROL	0687/07-07		4.51		7.57
	08/08	W213	FEDERAL FILIN	0708/0749			0.69	6.88
	08/08	W213	FEDERAL FILIN	0708/1149			0.69	6.19
	08/08	W213	FEDERAL FILIN	0709/1194			0.90	5.29
	08/08	W215	FEDERAL FILIN	0709/0749			0.90	4.39
	08/10	W213	FEDERAL FILIN	0789/1194			1.23	3.16
	08/10	W213	FEDERAL FILIN	0789/0749			1.23	1.93
	09/07	W516	LEGAL COPY CH	1349/LCOPY			1.93	0.00
	09/20	W825	REVERSE FILIN	1633/0709			0.90-	0.90
	09/20	W213	FEDERAL FILIN	1633/0749			0.90	0.00

* RESTITUTION ACCOUNT ACTIVITY

DATE SENTENCED: 07/26/02

CASE NUMBER: SCD163292

COUNTY CODE: SD

FINE AMOUNT: \$ 10,000.00

DATE	TRANS.	DESCRIPTION	TRANS. AMT.	BALANCE
07/01/2007		BEGINNING BALANCE		9,355.70
07/05/07	UR54	RESTITUTION DEDUCTION-SUPPORT	3.83-	9,351.87
08/07/07	UR54	RESTITUTION DEDUCTION-SUPPORT	5.00-	9,346.87

SATF/SP AT CORCORAN
INMATE TRUST ACCOUNT STATEMENT

FOR THE PERIOD: JUL. 01, 2007 THRU FEB. 29, 2008

ACCT: T61049

ACCT NAME: BROOKS, ERNEST

ACCT TYPE: I

* THIS STATEMENT DOES NOT REFLECT THE ADMINISTRATIVE FEE CHARGE THAT *
* IS EQUAL TO TEN PERCENT OF THE RESTITUTION AMOUNT COLLECTED. *

TRUST ACCOUNT SUMMARY

BEGINNING BALANCE	TOTAL DEPOSITS	TOTAL WITHDRAWALS	CURRENT BALANCE	HOLDS BALANCE	TRANSACTIONS TO BE POSTED
0.00	7.97	7.97	0.00	0.00	0.00

CURRENT
AVAILABLE
BALANCE

0.00

THE WITHIN INSTRUMENT IS A CORRECT
COPY OF THE TRUST ACCOUNT MAINTAINED
BY THIS OFFICE.
ATTEST: FEB 28 2008

CALIFORNIA DEPARTMENT OF CORRECTIONS

BY

TRUST OFFICE

1
2
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7
8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**
10

11 ERNEST J. BROOKS,

12 Petitioner,

13 v.

14 KEN CLARK, Warden, et al.,

15 Respondents.

Civil No. 08cv0125-JM (BLM)

**ORDER DISMISSING CASE
WITHOUT PREJUDICE**

16 Petitioner, a state prisoner proceeding pro se, has filed a Petition for Writ of Habeas
17 Corpus pursuant to 28 U.S.C. § 2254, but has failed to pay the \$5.00 filing fee and has failed to
18 move to proceed in forma pauperis. Because this Court cannot proceed until Petitioner has either
19 paid the \$5.00 filing fee or qualified to proceed in forma pauperis, the Court **DISMISSES** the
20 case without prejudice. See Rule 3(a), 28 U.S.C. foll. § 2254. If Petitioner wishes to proceed
21 with this case, he must submit, **no later than March 24, 2008**, a copy of this Order with the
22 \$5.00 fee or with adequate proof of his inability to pay the fee. The Clerk of Court shall send
23 a blank Southern District of California In Forma Pauperis Application to Petitioner along with
24 a copy of this Order.

25 **IT IS SO ORDERED.**

26 **DATED: January 30, 2008**

27 
28 Hon. Jeffrey A. Miller
United States District Judge

CC: ALL PARTIES